

**FILED**

SEP - 6 2018

Circuit Courts  
Multnomah County, Oregon

## IN THE CIRCUIT COURT OF THE STATE OF OREGON

## FOR MULTNOMAH COUNTY

THE STATE OF OREGON,

No. C 18-CR-59251

Plaintiff, DA 2388144-1

v.

STATE'S MEMORANDUM IN  
SUPPORT OF PROTECTIVE ORDER  
AND ORDER TO SEAL

NANCY LEE CRAMPTON-BROPHY

Defendant.

COMES NOW ROD UNDERHILL, District Attorney for Multnomah County, by and through his deputie, Shawn Overstreet, respectfully requests the court issue an order pursuant to ORS 135.873 protecting documents pertaining to the discovery in this case.

I. FACTS

That on June 2, 2018 Daniel Brophy left his home and arrived at his workplace, the Oregon Culinary Institute (OCI), located at 1701 SW Jefferson St. Daniel disarmed the alarm for the building at 7:21 am and was the only person in the building. At 7:08 am Nancy Brophy, Daniel's wife, is seen on surveillance video driving her Toyota mini-van Westbound on Jefferson Street directly in front of the OCI building. Nancy is seen again leaving the area of OCI, again going Westbound on Jefferson Street at 7:28 am. Daniel's co-worker arrived at 7:30am, but did not discover Daniel's body until she allowed students to enter the building around 8:00am. Daniel's body was located in the rear kitchen by students as they entered the building. Daniel had been shot two times, once in the back and once in the chest. The medical examiner concluded that both bullets could have been the one that killed Daniel as both pierced his heart. Detectives conducted a thorough search of the OCI and determined there were no signs of force or struggle. There were also no signs of motive regarding robbery, assault, or other crime. Daniel was still in possession of

1 his wallet (nothing missing), his cellular phone, eyeglasses, and car keys. His vehicle was in front  
2 of the OCI building and also had not been disturbed.

3 Nancy Brophy arrived at the OCI driving the same Toyota mini-van seen in the  
4 surveillance video shortly after detectives arrived. Nancy stated that she had been at home that  
5 morning and had not left until called about an incident at OCI. She gave a timeline of when Daniel  
6 had left the house, but claimed she remained at home. Nancy claimed that Daniel did not have any  
7 enemies and could not think of anyone who would want to hurt him. When asked if Daniel might  
8 bring a gun to work to protect himself, Nancy stated that she had recently purchased a Glock 9mm  
9 handgun, but neither her or Daniel had used it. I know that Leland Samuelson at the Oregon State  
10 crime lab has analyzed the bullets recovered from Daniel's body and the shell casings that were  
11 found on scene and determined they were most likely shot from a Glock 9mm firearm. Nancy  
12 allowed detectives to go to her home and retrieve the firearm and Leland Samuelson was able to  
13 determine that the firearm Nancy relinquished is not likely the firearm that shot and killed Daniel.

14 On or about June 5, 2018 Nancy called lead Detective Darren Posey and requested a letter stating  
15 that she was not a suspect in Daniel's homicide so that she could provide it to her life insurance  
16 company. Nancy stated that she had a policy for Daniel valued at \$40,000.00. Detectives declined  
17 to furnish the letter and later learned from several insurance carriers that Nancy is the beneficiary  
18 on several policies valued at over \$350,000.00. Detectives also learned that Nancy worked in the  
19 insurance industry and has actually sold life insurance policies in the past.

20 During a search of Daniel's phone detectives discovered that Daniel and Nancy had a joint  
21 iTunes account and detectives know that web pages that are bookmarked by one account holder are  
22 accessible by another account holder. Detectives discovered a bookmarked article on the joint  
23 iTunes account titled "10 ways to cover up a murder."

24 Nancy Brophy was arrested on September 5, 2018 and as she was being arrested she asked  
25 "You're arresting me?" Then added "You must think I murdered my husband." Nancy never  
offered any explanation as to why she lied about her whereabouts on the morning that Daniel was

1 killed, nor did she explain why she was circling the OCI building at the time Daniel was killed.  
2 Nancy also never explained why she lied about how much life insurance money is available to her.

### 3 II. LAW

4 ORS 135.873(2) allows a trial court at any time to order, upon a showing of good cause,  
5 that specified disclosures be denied, restricted, or deferred, or to make such other order as is  
6 appropriate. ORS 135.873(3) allows the court, upon request of any party, to permit the showing of  
7 good cause to be made in camera. Finally, ORS 135.873(4) states that if the court enters an order  
8 granting relief following a showing in camera, the entire record of the showing shall be sealed and  
9 preserved in the records of the court, to be made available to the appellate court in the event of an  
10 appeal. After the case has been concluded, the trial court may, in its discretion, unseal matters  
11 previously sealed.

### 12 III. ANALYSIS

13 Pursuant to ORS 135.873, the state is requesting that this court issue a protective order that  
14 allows the defendant access to the discovery in this case only at his attorney's office and in the  
15 presence of his defense team. The state further requests that the protective order prevent the  
16 defendant from copying, printing, duplicating, electronically mailing, posting on the internet or  
17 other social media, or in any way reproducing, distributing, disseminating, or publishing the  
18 discovery in this case. Lastly, the state requests that the protective order limit the defense team  
19 from reproducing the discovery in any way except as is necessary for use as an exhibit or other  
20 submission to the court, or as necessary for trial notebooks, or other litigation preparation.

21 In this case, the evidence suggests that the defendant may have acted alone, but may have  
22 also acted with other potential co-defendants. Release of any discovery to the public would  
23 jeopardize the ongoing investigation.

24 The protective order that the state requests directly addresses these legitimate concerns  
25 without unduly burdening the defense team or the defendant's ability to prepare for trial. It merely

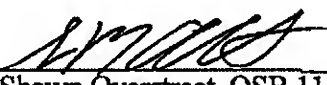
1 seeks to prevent the discovery from becoming public prior to the trial, as would be appropriate in  
2 any criminal case.

3 III. CONCLUSION

4 Based on the above information, the state hereby requests that the court find good cause to  
5 restrict the use of the discovery in this case in accordance with the attached order. The protection  
6 order sought by the state in no way impedes the defendant's access to potentially inculpatory or  
7 exculpatory material, or materials potentially useful for trial preparation.

8 The state further asks, for the reasons outlined above and pursuant to ORS 135.873(4), that  
9 this memorandum and the accompanying protective order and affidavit remain sealed within the  
10 corresponding court file.  
11

12 ROD UNDERHILL  
13 District Attorney  
Multnomah County, Oregon

14  
15 By:   
Shawn Overstreet, OSB 114859  
16 Deputy District Attorney  
17  
18  
19  
20  
21  
22  
23  
24  
25